

described in section 7425(b). At any time before a tax deed with respect to the property is issued by the clerk of the county court, the owner or any holder of a lien or other interest with respect to the property may obtain the tax certificate by paying the holder of the tax certificate the amount of the taxes, interest, and costs. After a date which is two years after the date on which the tax assessment became delinquent, the holder of the tax certificate may request the clerk of the county court to have the property advertised for sale. After advertisement of the sale, the clerk of the county court conducts a public sale of the real property and the purchaser obtains a tax deed. The interests of all junior lienors in the property are divested and the property is not subject to a right of redemption under the law of State P. For purposes of this section, this public sale is considered to be a nonjudicial sale described in section 7425(b) because the sale is made pursuant to a statutory lien on the property sold. The date of the sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the public sale is held at which the purchaser obtains a tax deed as this sale directly results in the divestment of junior liens on the property.

Example 6. The law of State Q contains a provision which permits a county to collect a delinquent tax assessment with respect to real property by the means of a tax sale of the property. After public notice is given, a "tax sale" of the real property is conducted. Upon payment of the delinquent taxes and interest, a purchaser obtains a tax certificate with respect to the real property. If there is no purchaser at the tax sale, the property is deemed to be bid in by the State. Because the obtaining of this tax certificate by a purchaser or State Q does not directly result in the divestment of either the owner's title or junior liens with respect to the property, the tax sale is not a nonjudicial sale described in section 7425(b). Following the tax sale, there is a three-year period during which any person having an interest in the property may redeem the property by paying the holder of the tax certificate the amount of taxes, interest, and costs. Unless redeemed, the holder of the tax certificate may obtain an absolute title at the expiration of the period of redemption provided he serves a notice of the expiration of the redemption period upon the owner at least 60 days prior to the date of expiration. Because there is no public or private sale which directly results in the divestment of junior liens on the property, the date of sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the holder of the tax certificate obtains absolute title.

[T.D. 7430, 41 FR 35178, Aug. 20, 1976]

§ 301.7425-3 Discharge of liens; special rules.

(a) *Notice of sale requirements*—(1) [Reserved] For further guidance, See § 301.7425-3T(a)(1).

(2) *Postponement of scheduled sale*—(i) *Where notice of sale is given.* In the event that notice of a sale is given in accordance with subparagraph (1) of this paragraph (a), with respect to a scheduled sale which is postponed to a later time or date, the seller of the property is required to give notice of the postponement to the IRS in the same manner as is required under local law with respect to other secured creditors. For example, assume that in State M local law requires that in the event of a postponement of a scheduled foreclosure sale of real property, an oral announcement of the postponement at the place and time of the scheduled sale constitutes sufficient notice to secured creditors of the postponement. Accordingly, if at the place and time of a scheduled sale in State M an oral announcement of the postponement is made, the Internal Revenue Service is considered to have notice of the postponement for the purpose of this subparagraph.

(ii) *Where notice of sale is not given.* In the event that—

(A) Notice of a nonjudicial sale would not be required under subparagraph (1) of this paragraph (a), if the sale were held on the originally scheduled date,

(B) Because of a postponement of the scheduled sale, more than 30 days elapse between the originally scheduled date of the sale and the date of the sale, and

(C) A notice of lien with respect to the property to be sold is filed more than 30 days before the date of the sale, notice of the sale is required to be given to the IRS in accordance with the provisions of paragraph (a)(1) of this section. In any case in which notice of sale is required to be given with respect to a scheduled sale, and notice of the sale is not given, any postponement of the scheduled sale does not affect the rights of the United States under section 7425(b).

(iii) *Examples.* The provisions of subdivision (ii) of this subparagraph may be illustrated by the following examples:

Example 1. A nonjudicial sale of Blackacre, belonging to A, a delinquent taxpayer, is scheduled for December 2, 1968. As no notice of lien is filed applicable to Blackacre more than 30 days before December 2, 1968, no notice of sale is given to the IRS. On December 2, 1968, the sale of Blackacre is postponed until January 15, 1969. A notice of lien with respect to Blackacre is properly filed on January 2, 1969. The sale of blackacre is held on January 15, 1969. Even though more than 30 days elapsed between the originally scheduled date of the sale (December 2, 1968) and the date of the sale (January 15, 1969), no notice of sale is required to be given to the IRS because the notice of lien was not filed more than 30 days before the date of the sale.

Example 2. Assume the same facts as in example 1 except that a notice of lien is filed on November 29, 1968, in accordance with section 6323. Because more than 30 days elapsed between the originally scheduled date of the sale and the date of the sale, and the notice of lien is filed (on November 29, 1968) more than 30 days before the date of the sale (January 15, 1969), notice of the sale, in accordance with the provisions of subparagraph (1) of this paragraph, is required to be given to the district director.

Example 3. A nonjudicial sale of Whiteacre, belonging to B, a delinquent taxpayer, is scheduled for December 2, 1968. A notice of lien applicable to Whiteacre is filed on November 12, 1968, in accordance with section 6323. As the notice of lien was not filed more than 30 days before December 2, 1968, no notice of sale is given to the IRS. On December 2, 1968, the sale of Whiteacre is postponed until December 20, 1968. The sale of Whiteacre is held on December 20, 1968. Even though more than 30 days elapsed between the date notice of lien was filed (November 12, 1968) and the date of the sale (December 20, 1968), no notice of sale is required to be given to the IRS because not more than 30 days elapsed between the date of the originally scheduled sale (December 2, 1968) and the date the sale was actually held (December 20, 1968).

(b) *Consent to sale*—(1) [Reserved] For further guidance, See § 301.7425-3T(b)(1).

(2) [Reserved] For further guidance, See § 301.7425-3T(b)(2).

(c) *Sale of perishable goods*—(1) [Reserved] For further guidance, See § 301.7425-3T(c)(1).

(2) *Definition of perishable goods.* For the purpose of this paragraph, the term “perishable goods” means any tangible personal property which, in the reasonable view of the person selling the property, is liable to perish or become greatly reduced in price or value by

keeping, or cannot be kept without great expense.

(d) *Content of notice of sale*—(1) *In general.* With respect to a notice of sale described in paragraph (a) or (c) of this section, the notice will be considered adequate if it contains the information described in paragraph (d)(1) (i), (ii), (iii), and (iv) of this section.

(i) The name and address of the person submitting the notice of sale;

(ii) A copy of each notice of Federal Tax Lien (Form 668) affecting the property to be sold, or the following information as shown on each such Notice of Federal Tax Lien—

(A) The IRS office named thereon,

(B) The name and address of the taxpayer, and

(C) The date and place of filing of the notice;

(iii) With respect to the property to be sold, the following information—

(A) A detailed description, including location, of the property affected by the notice (in the case of real property, the street address, city, and State and the legal description contained in the title or deed to the property and, if available, a copy of the abstract of title),

(B) The date, time, place, and terms of the proposed sale of the property, and

(C) In the case of a sale of perishable property described in paragraph (c) of this section, a statement of the reasons why the property is believed to be perishable; and

(iv) The approximate amount of the principal obligation, including interest, secured by the lien sought to be enforced and a description of the other expenses (such as legal expenses, selling costs, etc.) which may be charged against the sale proceeds.

(2) [Reserved] For further guidance, See § 301.7425-3T(d)(2).

(3) [Reserved] For further guidance, See § 301.7425-3T(d)(3).

(4) [Reserved] For further guidance, See § 301.7425-3T(d)(4).

(e) [Reserved] For further guidance, See § 301.7425-3T(e).

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